

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Broadcast Localism)	MM Docket No. 04-233
)	

To: The Commission (electronically filed)

COMMENTS

Equity Media Holdings Corporation ("EMHC"), which through itself and wholly owned subsidiaries holds an attributable interest in over 20 full power and 100 Class A and low power television stations, hereby submits its comments in the above-referenced proceeding. The Commission seeks information on ways in which broadcast stations can address the needs of their local communities. Many of the stations attributable to EMHC are either stations serving smaller markets or specialty stations that serve minority and smaller "niche" audiences in larger markets. While EMHC appreciates the FCC's concerns in ensuring the local needs of a community are served by local broadcasters, the proposed rules would create such an undue economic and regulatory burden on station operations that it threatens the very ability of many stations in smaller markets to even operate, a result completely contrary to the very goal the FCC is attempting to achieve. Further, the FCC is ignoring the proliferation of other media, namely, the Internet, that have provided not only more voices to an already robust marketplace, but an additional tool by which local community concerns may be introduced and debated. Against this backdrop, the FCC should instead continue to rely on the current local rules in place and allow broadcasters to govern themselves and be ruled by the marketplace. The most effective way of ensuring that a station serves the local interest is to let the viewers decide -- if a station does not meet the needs of its

community, let the viewer switch the channel, or tune into another medium available in that respective market, rather than unduly compel licensees with burdensome rules.

1. Community Advisory Boards. When community boards were first used in the early license ascertainment process and renewal evaluation, the FCC itself noted the burden appeared to far outweigh the alleged benefit when it eventually repealed the rule in 1984. *See Revision of Programming and Commercialization Policies*, 98 F.C.C. 2d 1075, 1099 (1984). There is no reason to believe that the current proposed board review requirement would result in any different. In many markets in which EMHC operates, either smaller markets or smaller viewing audiences in larger markets, the staff is already taxed with the day-to-day operational requirements. The viewers already have ways in which to comment on the programming and their satisfaction with the local presence a station has in the market, from telephone calls and emails, to even sending letters to the editor of the daily newspaper. It obviously behooves the licensee to take these comments under advisement and incorporate to the extent economically feasible, or else it risks losing viewers.

To impose mandatory committee overview could actually result in a chilling effect, bordering on an unconstitutional limitation on the free speech right of the licensee, in that the television licensee may begin ignoring the opinions of its viewers to meet the needs of the community group, and there is no guarantee that the input will result in better local programming being provided that somehow may qualitatively be determined to better meet local community needs. In addition, there are more serious issues that affect the legality of creating these boards. For example, for many of EMHC's Spanish language only stations, would the board be able to be limited only to Spanish speakers, excluding English-speaking persons?

2. Main Studio Requirement. Again, with the increased reliance on the Internet, toll-free telephone numbers, and the number of documents available about a station on the FCC's own website, the proximity of a studio to its actual community of license has become less important. The current rule, which allows a main studio to be placed anywhere within 25 miles of the community reference points, or the largest principal community contour of any broadcast station also licensed to that community, is flexible enough to allow for the licensee to find the most effective location for a studio without losing the proximity for the public to interact with the station. There is no evidence that requiring a studio to be within the community limits will in any way affect a station's ability to better serve the local needs of its city of license. Further, a station does not serve the particular community of license, but a surrounding geographic area, and the current main studio rules provides a good balance of allowing flexibility by the licensee while maintaining a local presence.

3. Remote Station Operations. The advent of technology and unattended operation has allowed for a much more cost effective way to operate stations without abandoning service in the community of license. This has been a key manner by which EMHC stations have been able to operate specialty stations and independent stations in smaller markets. In fact, improvements in technology allow for nearly complete control over station operations from a remote location, including modifying parameters, and the manipulation of equipment. The money saved from unattended operation has allowed EMHC to use the saved financial resources to purchase and/or produce programming for local broadcast, as well as produce local Spanish newscasts for many of its markets. If EMHC were required to staff each of its stations on a 24/7 basis, the additional overall cost would result in EMHC being handcuffed in spending on production and programming, and might

even result in EMHC having to take certain stations dark, which is certainly inapposite to what the FCC is attempting to espouse. In addition, EMHC has certain areas where stations are clustered, such as in the Northwest Arkansas region, and careful consideration has been made to determine the most efficient and effective way of manning certain of these stations and allowing others to remain unattended. To impose undue and burdensome regulation on this balance by requiring additional staffing could potentially be disastrous. Further, with the EAS system implemented at all stations, there is certainly no proof that “manning” stations would in any way allow for emergency information to be disseminated any faster than what is currently in place.

CONCLUSION

EMHC remains committed to being a local voice in each of the communities in which it has a licensed television station, and will continue to make efforts to be responsive to its viewers as to what they want on their local television stations, from airing local sports to news. To impose any further regulatory burden beyond what is currently in place would put many of EMHC’s specialty and smaller independent stations at great risk of providing a less effective response to the concerns of its local viewers.

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April 28, 2008

Respectfully submitted,

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